IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 794 of 2001
Date of Decision: 12.3.2007

Lila Ram and others ...Appellants

Versus

Sukh Lal and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri P.N. Aggarwal, Advocate, for the appellants.

Shri Sanjay Mittal, Advocate, for the respondent.

HEMANT GUPTA, J.

The plaintiffs are in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby their suit for declaration claiming the estate of Dhanna and Bhagwana sons of Sheo Dutt, was partly decreed.

The appellants are agnates of Sheo Dutt. Dhanna, Bhagwana and Yad Ram are three sons of above Sheo Dutt. Yad Ram has sold his share during his lifetime, therefore, there is no dispute regarding the land falling to his share. However, Bhagwana sold his entire share in the land except his 1/4th share. It is the said 1/4th share of Bhagwana and the share falling to the estate of Dhanna, which are in dispute in the present suit.

The plaintiffs have claimed that a gift deed was executed in respect of share of Dhanna on 24.9.1965 after his death on 22.9.1965 and, therefore, the plaintiffs are entitled to succeed to the entire share of Dhanna and the land measuring 5 kanals 11 marlas i.e. the remaining share of Bhagwana. It was pointed out that Dhanna and

Bhagwana have died issueless and therefore, the plaintiffs being their nearest heir are entitled to succeed to their estate.

It has been found that Bhagwana had filed a suit during his lifetime challenging the gift deed dated 24.9.1965, wherein the parties arrived at a settlement and a compromise decree was passed on 7.7.1971 (Exhibit DA). Vide the aforesaid decree, the suit in respect of ½ share of Dhanna in favour of Bhagwana was decreed

It has been found that Bhagwana was the nearest heir of Dhanna and a settlement having been arrived at, it is not open to the appellants, the agnates of Sheo Dutt, to claim the estate of Dhanna and Bhagwana in the present suit.

Bhagwana being nearest heir of Dhanna had challenged the gift deed executed by Dhanna in favour of Sukh Lal, the present defendant. A compromise decree has been passed in the aforesaid suit. The present suit has been filed in the year 1985, though the compromise was entered into in the year 1971. It is not open to the appellant to dispute such compromise in the present suit. Bhagwana had died issueless, therefore, it has been rightly found by the Courts below that the appellants are entitled to the land falling to the share of Bhagwana being his nearest heir.

I do not find any patent illegality or irregularity in the findings recorded by the Courts below, which may give rise to any substantial question of law in the present appeal.

Hence, the present appeal is dismissed.

09.03.2007 (HEMANT GUPTA)
ds JUDGE